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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/646,850

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Uwe Mellenthin

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VIDAS, ARRETT & STEINKRAUS, P.A.  
SUITE 400, 6640 SHADY OAK ROAD  
EDEN PRAIRIE, MN 55344

EXAMINER

DAYE, CHELCIE L

ART UNIT

PAPER NUMBER

2161

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/646,850

Applicant(s)

MELLENTIN ET AL.

Examiner

CHELCIE DAYE

Art Unit

2161

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 15-18 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15-18 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This action is issued in response to applicant's RCE filed November 21, 2008.
2. Claims 1-11, 15-18, and 21 are presented. No claim added and claims 12-14 and 19-20 remain cancelled.
3. Claims 1-11, 15-18, and 21 are pending.
4. Applicant's arguments filed November 21, 2008, have been fully considered but they are not persuasive.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 1-2, 4-5, 10, 15-18, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Brand (US Patent Application No. 2003/0183226).**

Regarding Claims 1 and 15, Brand discloses a method for handling data of a proportioning device for the dosing of liquids, comprising the steps of:

providing the proportioning device for the dosing of liquids ([0002], Brand), in a production process ([0003-0004], Brand), with at least one transponder for contactlessly storing data using a writing device and from which data can be contactlessly read using a reading device ([0054-0055], Brand)<sup>1</sup>, the proportioning device being of a portable or stationary design and selected from the group consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor-operated dispensers, the proportioning device for the dosing of liquids ([0002] and [0097], Brand),

storing production-related data about the proportioning device, in the production process, into the transponder using the writing device ([0016-0017]; [0030], Brand),

during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device ([0026];[0030];[0096], Brand),

during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device ([0018];[0130-0131], Brand),

wherein the application-related specific data stored into the transponder is fully or partially variable ([0084], Brand).

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<sup>1</sup> Examiner Notes: The data is wirelessly transferable between the transceivers (see [0032]), therefore

Regarding Claims 2 and 16, Brand discloses the method wherein the proportioning device is provided with a passive transponder ([0054-0055], Brand).

Regarding Claim 4, Brand discloses the method wherein the transponder is encapsulated in the proportioning device ([0046-0050], Brand).

Regarding Claims 5 and 21, Brand discloses the method wherein an article number and/or a serial number of the proportioning device and/or a production order number and/or a batch number is/are stored into the transponder as production-related specific data ([0022], Brand).

Regarding Claim 10, Brand discloses the method wherein usage data is stored into the transponder as application-related specific data ([0027], Brand).

Regarding Claim 17, Brand discloses the proportioning device wherein the transponder is encapsulated in a casing of the proportioning device ([0050];[0060-0061], Brand).

Regarding Claim 18, Brand discloses the proportioning device wherein the transponder is disposed inside the casing of the proportioning device or is injected into the casing of the proportioning device ([0050];[0060-0061], Brand).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**8. Claims 3, 7-8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brand (US Patent Application No. 2003/0183226) in view of Curry (US Patent No. 6,814,293).**

Regarding Claim 3, Brand discloses all of the claimed subject matter as stated above. However, Brand is not as detailed with a beginning stage of assembling the proportioning device, a product component is provided with the transponder. On the other hand, Curry discloses a beginning stage of assembling the proportioning device, a product component is provided with the transponder (column 17, lines 8-24, Curry). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Curry's teachings into the Brand system. A skilled artisan would have been motivated to combine in order to authorize the system to communicate data with other. By applying this

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information this allows the device to be self-contained ensuring that the needed data will be available with more ease.

Regarding Claim 7, the combination of Brand in view of Curry, disclose the method wherein sales data is stored into the transponder as application-related specific data (column 7, lines 29-31; column 17, lines 2-7, Curry).

Regarding Claim 8, the combination of Brand in view of Curry, disclose the method wherein inventory data of the user is stored into the transponder as application-related specific data (column 7, lines 29-31; column 17, lines 2-7, Curry).

Regarding Claim 11, the combination of Brand in view of Curry, disclose the method wherein maintenance and/or repair data is stored into the transponder as application-related specific data (column 17, lines 2-7; column 20, lines 36-39, Curry).

**9. Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brand (US Patent Application No. 2003/0183226) in view of Curry (US Patent No. 6,814,293), further in view of Jansen (US Patent No. 6,778,917).**

Regarding Claim 6, the combination of Brand in view of Curry, disclose the method of storing production-related specific data ([0016-0017]; [0030], Brand). However, Brand in view of Curry, are silent with respect to the data being initial calibration. On the other hand, Jansen discloses disclosing the data being initial calibration (column 4, lines 37-55, Jansen). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Jansen's calibration system into the Brand and Curry system. A skilled artisan would have been motivated to combine, as suggested by Jansen at columns 2-3, lines 60-67 and 1-2, respectively, in order to alleviate the tedious and erroneous task of inputting the calibration data via a keyboard. Thereby, providing a system for operating a metering system with improved operating parameters.

Regarding Claim 9, the combination of Brand in view of Curry, further in view of Jansen, disclose the method wherein calibration data of the user is stored (column 4, lines 37-55 and column 5, lines 15-22, Jansen) into the transponder as application-related specific data ([0026];[0030];[0096], Brand).

### ***Response to Arguments***

Applicant's arguments with respect to the newly amended claims have been considered but are moot in view of the new ground(s) of rejection.



***Points of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHELCIE DAYE whose telephone number is (571)272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye  
Patent Examiner  
Technology Center 2100  
January 7, 2009

/Apu M Mofiz/  
Supervisory Patent Examiner, Art Unit 2161